



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.		
10/007,105	12/04/2001	William A. Banks	2001P07389 US01	3627		
7590	03/03/2010	Elsa Keller Intellectual Property Department Siemens Corporation 186 Wood Avenue South Iselin, NJ 08830	EXAMINER CHAMPAGNE, LUNA			
ART UNIT 3627		PAPER NUMBER				
MAIL DATE 03/03/2010		DELIVERY MODE PAPER				

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

1           UNITED STATES PATENT AND TRADEMARK OFFICE

2  
3  
4           BEFORE THE BOARD OF PATENT APPEALS  
5           AND INTERFERENCES

6  
7  
8           *Ex parte* WILLIAM A. BANKS,  
9           MORGAN L. PAPE, and  
10          LUIS CASTILLO

11  
12  
13          Appeal 2009-006762  
14          Application 10/007,105  
15          Technology Center 3600

16  
17  
18          Decided: March 3, 2010

19  
20  
21          Before ANTON W. FETTING, JOSEPH A. FISCHETTI, and BIBHU R.  
22          MOHANTY, *Administrative Patent Judges*.  
23          FETTING, *Administrative Patent Judge*.

24           DECISION ON APPEAL

25

1 STATEMENT OF THE CASE

2 William A. Banks, Morgan L. Pape, and Luis Castillo (Appellants) seek  
3 review under 35 U.S.C. § 134 (2002) of a final rejection of claims 1-26, the  
4 only claims pending in the application on appeal.

5 We have jurisdiction over the appeal pursuant to 35 U.S.C. § 6(b)  
6 (2002).

7 SUMMARY OF DECISION<sup>1</sup>

8 We AFFIRM-IN-PART.

9 THE INVENTION

10 The Appellants invented a system for processing product information  
11 including product price, description, and supplier information held in one or  
12 more database in support of commercial transactions such as product  
13 purchasing, procurement, or billing (Specification 1:9-12).

14 An understanding of the invention can be derived from a reading of  
15 exemplary claims 1 and 26, which is reproduced below [bracketed matter  
16 and some paragraphing added].

17 1. A system for processing product information for supporting  
18 commercial transactions, comprising:

---

<sup>1</sup> Our decision will make reference to the Appellants' Appeal Brief ("App. Br.," filed April 3, 2006) and Reply Brief ("Reply Br.," filed July 13, 2006), and the Examiner's Answer ("Ans.," mailed June 30, 2006), and Final Rejection ("Final Rej.," mailed November 4, 2005).

1 [1] a first database for maintaining product information  
2 including product description, product vendor and associated  
3 vendor product pricing information;

4 [2] a data processor for receiving product information and  
5 for updating said first database information to incorporate  
6 received product information including product sales data and  
7 contract sales terms of a vendor in response to detection of  
8 matching records between said received product information  
9 and said first database information; and

10 [3] an interface processor for communicating updated  
11 product price information to a system derived based on said  
12 product sales data and contract sales terms of said vendor in  
13 response to user command.

14

15 26. A method for processing product information for  
16 supporting commercial transactions, comprising the steps of:

17 [1] maintaining, in a first database, product information  
18 including product description, product vendor and associated  
19 product pricing information;

20 [2] receiving product information from a remote application;

21 [3] updating said first database information to incorporate  
22 received product information  
in response to detection of a difference between stored product  
24 information and said received product information:

25 [4] automatically modifying at least one element of the  
26 updated product information in the first database according to  
27 predetermined rules, and

28 [5] initiating display of at least one of updated and modified  
29 product information in response to user command.

30

31 THE REJECTIONS

32 The Examiner relies upon the following prior art:

Litzow et al. US 2003/0093414 A1 May 15, 2003

1 Claims 1-26 stand rejected under 35 U.S.C. § 102(e) as anticipated by  
2 Litzow.

3 ISSUES

4 The issue pertinent to this appeal is whether the Appellants have  
5 sustained the burden of showing that the Examiner erred in rejecting claims  
6 1-26 under 35 U.S.C. § 102(e) as anticipated by Litzow. This pertinent issue  
7 turns on whether Litzow describes updating pricing information based on  
8 product sales and contract terms of vendors.

9

10 FACTS PERTINENT TO THE ISSUES

11 The following enumerated Findings of Fact (FF) are believed to be  
12 supported by a preponderance of the evidence.

13 *Facts Related to the Prior Art*

14 *Litzow*

15 01. Litzow is directed to a method and system for more efficiently  
16 matching desired goods, services and offer terms for those goods  
17 and services to willing consumers facilitating commercial  
18 transactions (Litzow ¶ 0002).

19 02. The system utilizes a communications network, such as a WAN  
20 or LAN (Litzow ¶ 0084). The operational components of the data  
21 processing system (DPS) include a customer database, a  
22 transaction database, a vendor database, and a customer service

1 database (Litzow ¶'s 0086 - 0089). The customer database stores  
2 all customer data, including demographic information, credit  
3 history, purchase history, and survey responses (Litzow ¶ 0086).  
4 The transaction database contains information regarding the goods  
5 and services sold in the system, including information as to  
6 persons projected to have an affinity to the products and services  
7 (Litzow ¶ 0087). The transaction database is continuously being  
8 refined by the offerings of various vendors (Litzow ¶ 0123). For  
9 example, if a consumer purchased a newly offered package of  
10 cable channels, that package may not at the time of the purchase  
11 be included in the transaction database and the DPS institutes a  
12 new designation for this new service (Litzow ¶ 0123). The vendor  
13 database contains all vendor information, including defined  
14 products, product pricing information, and delivery information  
15 (Litzow ¶ 0088). The customer service database stores all service  
16 requests for existing transactions (Litzow ¶ 0089).

17 03. The method begins with the customer enrolling with the  
18 system, which includes the customer specifying vendors and  
19 where vendors should send the bills (Litzow ¶ 0091). The system  
20 records various customer transactions over time and optionally,  
21 records the customer's responses to various questions (Litzow ¶  
22 0092). The system continues to refine customer information using  
23 transactional information, third party information, and other  
24 supplemental information until the customer is deemed  
25 acceptable. Litzow ¶'s 0092 - 0093. The customer is then entered  
26 into a "closed market" of customers in the customer database.

1 Litzow ¶'s 0092 - 0093. The “closed market” of customers is  
2 used for demographic analysis. Litzow ¶ 0093. Transactional  
3 information about a customer is recorded and stored. Litzow ¶  
4 0094. Details from items billed to a customer are used to increase  
5 the precision with which direct marketing efforts are made  
6 towards that customer. Litzow ¶ 0095.

## 7 PRINCIPLES OF LAW

### 8 *Anticipation*

9 "A claim is anticipated only if each and every element as set forth in the  
10 claim is found, either expressly or inherently described, in a single prior art  
11 reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628,  
12 631 (Fed. Cir. 1987). "When a claim covers several structures or  
13 compositions, either generically or as alternatives, the claim is deemed  
14 anticipated if any of the structures or compositions within the scope of the  
15 claim is known in the prior art." *Brown v. 3M*, 265 F.3d 1349, 1351 (Fed.  
16 Cir. 2001). "The identical invention must be shown in as complete detail as  
17 is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d  
18 1226, 1236 (Fed. Cir. 1989). The elements must be arranged as required by  
19 the claim, but this is not an *ipsissimis verbis* test, *i.e.*, identity of terminology  
20 is not required. *In re Bond*, 910 F.2d 831, 832 (Fed. Cir. 1990).

## 21 ANALYSIS

### 22 *Claims 1-26 rejected under 35 U.S.C. § 102(e) as anticipated by Litzow*

23 The Appellants first contend that Litzow fails to describe continuously  
24 updating and maintaining accurate product pricing based on product sales

Appeal 2009-0006762  
Application 10/007,105

1 data and contract sales terms of a vendor, as per claim 1. Since Litzow is  
2 only concerned with developing a direct marketing strategy for a customer.  
3 App. Br. 9. We agree with the Appellants. Limitation [3] of claim 1  
4 requires communicating updated product price information based on product  
5 sales data and contract sales terms of a vendor.

6 Litzow describes a system that utilizes several databases to store  
7 information. FF 02. The databases are continuously being updated based  
8 with transactional information and demographic information as related to a  
9 customer or a vendor. FF 02. The information stored in the databases is  
10 used to continuously develop and increase the precision of direct marketing  
11 towards a customer. FF 03.

12 Litzow further describes refining product information based on the  
13 offerings made by various vendors. FF 02. However, Litzow fails to  
14 specifically describe updating product price information. Litzow is also  
15 silent on the features requiring the updated pricing information to be based  
16 on sales data and contract sales terms of vendors.

17 The Examiner broadly found that claim 1 is an apparatus with massive  
18 intended use phrases. Ans. 4. However, the Examiner failed to point to any  
19 specific features or limitations of claim 1 that should not be afforded  
20 patentable weight. The Examiner also failed to point to any portion of  
21 Litzow that describes a feature of updating pricing information based on  
22 sales data and contract sales terms. As such, we find nothing on the record  
23 that suggests that Litzow anticipates claim 1.

24 Independent claims 4, 16, and 21 also require updating pricing  
25 information based on sales data and contract sales terms of a vendor.

1      Dependant claims 2-3, 5-15, 17-20, and 22-25 also incorporate this feature.  
2      As such, Litzow fails to anticipate 1-25.

3           Since we find this argument determinative, we need not reach the  
4      remaining arguments with respect to claims 1-25.

5           With respect to claim 26, the Appellants contend that Litzow fails to  
6      describe limitations [3] and [4]. App. Br. 26-27. We disagree with the  
7      Appellants. Limitation [3] requires updating production information in the  
8      first database in response to a difference between stored information and  
9      received product information. Limitation [4] further requires automatically  
10     modifying an element of the updated product information according to  
11     predetermined rules. We note that claim 26 does not limit the updating of  
12     product information to be updating pricing information based on sales data  
13     and contract sales terms of a vendor.

14          As discussed *supra*, Litzow describes using acquired transaction and  
15     demographic data to continuously increase the precision of a direct  
16     marketing strategy. FF 02 - 03. Litzow further explicitly describes that  
17     product information and offerings are continuously being refined. FF 02.  
18     That is, Litzow describes updating product information when stored  
19     information does not match or contains new product information. This  
20     simply correlates to a predetermined rule to update the database with new  
21     services that are not found in the database. As such, Litzow describes  
22     limitations [3] and [4] and Litzow anticipates claim 26.

## CONCLUSIONS OF LAW

2 The Appellants have sustained the burden of showing that the Examiner  
3 erred in rejecting claims 1-25 under 35 U.S.C. § 102(e) as anticipated by  
4 Litzow.

5 The Appellants have not sustained the burden of showing that the  
6 Examiner erred in rejecting claim 26 under 35 U.S.C. § 102(e) as anticipated  
7 by Litzow.

## DECISION

To summarize, our decision is as follows.

- 10 • The rejection of claims 1-25 under 35 U.S.C. § 102(e) as anticipated  
11 by Litzow is not sustained.
- 12 • The rejection of claim 26 under 35 U.S.C. § 102(e) as anticipated by  
13 Litzow is sustained.

15 No time period for taking any subsequent action in connection with this  
16 appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

## AFFIRM-IN-PART

mey

### Address

Appeal 2009-0006762  
Application 10/007,105

1 ELSA KELLER  
2 INTELLECTUAL PROPERTY DEPARTMENT  
3 SIEMENS CORPORATION  
4 186 WOOD AVENUE SOUTH  
5 ISELIN NJ 08830